Attorney Docket No.: 4861/6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of :	Confirmation No. : 8797
Jonathan SCHULL	Examiner : Firmin BACKER
Serial No. : 09/764,293	Group Art Unit : 3621
Filed : January 19, 2001	Attorney Dkt No. : 4861-6 (TWX 0427)
Title : METHOD FOR ADAPTING A SOFTWARE PRODUCT TO AN ENVIRONMENT	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

Sir:

A Notice of Appeal from the final rejection of claims 58, 62-81, 128, 132-144, 146-150

and 154-194 for the above captioned U.S. patent application was filed on January 30, 2006.

Appellant hereby files this Appeal Brief, together with the required fee as set forth under

37 C.F.R. § 41.20(b)(2).

Appellant has filed concurrently with this Appeal Brief a Request for an Oral Hearing

under 37 C.F.R. § 41.47. The required fee as set forth under 37 C.F.R. § 41.20(b)(3) has been

remitted herewith.

It is not believed that extensions of time are required beyond those that may otherwise be

provided for in documents accompanying this paper. However, if additional extensions of time

are necessary to prevent abandonment of this application, then such extensions of time are

hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for

net addition of claims) are hereby authorized to be charged to Deposit Account No. 02-4270.

EV 330374937 US

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I. Real Party in Interest (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this Appeal is the Assignee of the above-captioned patent

application (the "Application"), namely SL Patent Holdings LLC, which is a wholly owned

subsidiary of Time Warner Inc. The inventor has assigned his entire right, title, and interest in

and to the Application to SL Patent Holdings LLC by virtue of an assignment agreement

recorded in the United States Patent and Trademark Office (PTO) at Reel 014468, Frame 0561.

II. Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))

Appellant, including the undersigned legal representative and the real party in interest of

the Application, is aware of no prior and pending appeals, interferences, or judicial proceedings

that may be related to, directly affect, or be directly affected by or have a bearing on the Board of

Patent Appeals and Interferences ("the Board") in the pending Appeal.

III. Status of the Claims (37 C.F.R. § 41.37(c)(1)(iii))

The Application was filed on January 19, 2001 and assigned U.S. Application No.

09/764,293. The Application was filed concurrently with a Preliminary Amendment canceling

claims 1-19 and adding claims 20-22. In a second Preliminary Amendment filed under 37 C.F.R.

§ 1.115 on August 15, 2001, claims 20-22 were cancelled and new claims 23-57 were added. In a

supplemental Amendment and Reply filed under 37 C.F.R. § 1.114 on November 25, 2003, new

claims 58-173 were added. In an Office Action dated June 15, 2004, the Examiner cancelled

claims 23-57 subsequent to Appellant's election of claims 58-173 without traverse in a Response

to a Restriction Requirement, filed on May 4, 2004. In an Amendment and Reply filed under 37

C.F.R. § 1.111 on May 13, 2005, claims 59-61, 82-127, 129-131, 145, and 151-153 were

cancelled, and new claims 174-194 were added. As such, claims 58, 62-81, 128, 132-144, 146-

150, and 154-194 are pending in the Application, with claims 58, 128, 150, and 174 being the

independent claims.

In an Office Action dated July 28, 2005, claims 58, 62-81, 128, 132-144, 146-150, and

154-194 were finally rejected, with the pending claims being subject to multiple rejections. (See

Paper No. 10). A Notice of Appeal was filed on January 30, 2006. Claims 58, 62-81, 128, 132-

144, 146-150, and 154-194 are on appeal. A copy of the claims on appeal can be found in

Section VIII herein.

IV.   Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))

No additional amendments have been entered since Appellant's Amendment and Reply

filed under 37 C.F.R. § 1.111 on May 13, 2005. The Examiner has entered and considered the

Amendment and Reply as evidenced by the Office Action dated July 28, 2005 (Paper No. 10).

There are no non-entered, proposed Amendments that have been filed subsequent to the

Examiner's rejections in Paper No. 10. Additionally, no amendments have been filed with this

Appeal Brief. Therefore, there are no non-entered amendments in the Application.

V.   Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))

The claimed subject matter is presently drawn to methods and systems for managing

digital rights and other authorizations granted to recipients of digital information, such as

software programs, audio, video, text documents, graphics, and other forms of media and/or

multimedia. In particular, the claimed subject matter includes mechanisms that enable and

encourage the open distribution of digital information while mitigating and deterring piracy. As

the digital information is copied, shared, or purchased, the digital information, for example, can

be tracked and/or modified to control user rights, identify trends, improve performance, and/or

reward consumer behavior. Through use of the claimed subject matter, redistributed or copied

digital information can be "locked" to restrict access to selected "features" or "computerized

functions." For example, a recipient may evaluate the locked information in its "demo-mode"

and decide whether to purchase or otherwise request access to the advanced features. To access

the advanced features in that example, a "parameter setting" can be changed to unlock the

advanced features. Alternatively, or in addition, the types and/or behaviors of features that are

made available can be monitored and changed to adapt the digital information to local or

contemporaneous consumer preferences, and thereby encourage users to sample and/or share the

digital information in its "protected" mode and potentially purchase the right to access an

advanced feature. For example, a parameter setting can be changed to increase or decrease the

runtime for distinct copies of software operating in demo mode when each software copy is

sampled and/or shared. Depending on the local environment and market within which the

software is being circulated, the runtime parameter can be adjusted to promote further sampling,

sharing, and/or purchase.

Therefore, one possible application of the claimed subject matter is to provide means for

encouraging the redistribution and/or purchase of digital information by, for example, changing a

parameter setting to vary or improve the function performed by the digital information. (See *e.g.*,

pages 1-8). For example, independent claim 58 recites a method for generating a variation of

digital information. The method of claim 58 comprises the production of a second instance of

digital information that is based on a first instance of the digital information (*see e.g.*, page 8,

lines 3-26; FIG. 1). The first instance includes a first portion and a second portion (*id.*). The first

portion includes functional data used in performing a computerized function or feature (*see e.g.*,

page 18, lines 20-27; pages 19-20; FIG. 1). At least one aspect of performing the function is

affected by a parameter setting (*id.*). The second portion of the first instance includes at least the

parameter setting (*id.*). The second instance of the digital information is produced in response to

a copying event or a purchasing event for the digital information (*id.*). The second instance

includes the functional data and the parameter setting from the first instance (*id.*). The method

also comprises changing the parameter setting in the second instance of digital information,

wherein the changing is determined by using parameter setting change data and the changing is

linked to the copying event or the purchasing event (*id.*). Therefore by changing the parameter

setting in the second instance, the computerized function or enabled features of the second

instance can be varied or improved to, *inter alia*, promote redistribution and/or purchase of the

second instance. (*See e.g.*, pages 1-8).

Independent claim 128 recites a system for generating a variation of digital information.

The system includes a memory device that stores a first instance of digital information that

comprises a first portion and a second portion (*see e.g.*, page 8, lines 3-26; page 11, lines 12-20;

FIG. 1). The first portion includes functional data used in performing a computerized function or

feature, and at least one aspect of performing the function is affected by a parameter setting (*see

e.g.*, page 11, lines 12-20; page 18, lines 20-27; pages 19-20; FIG. 1). The second portion

includes at least the parameter setting (*id.*). A computerized processor is also included that is

programmed to produce a second instance of the digital information, and change a parameter

setting in the second instance (*see e.g.*, page 10, lines 6-27; page 11, lines 12-20; page 12, lines

7-25; page 16, lines 10-26; page 18, lines 20-27; pages 19-20; FIG. 1). The production of the

second instance is based on the first instance, and the second instance includes the functional

data and the parameter setting from the first instance (*id.*). The second instance is produced in

response to a copying event or a purchasing event for the digital information (*id.*). Regarding the

parameter change in the second instance, the change in parameter setting is determined by using

parameter setting change data, and the change is linked to the copying event or the purchasing

event (*id.*). Therefore by changing the parameter setting in the second instance, the computerized

function or enabled features of the second instance can be varied or improved to, *inter alia*,

promote redistribution and/or purchase of the second instance. (*See e.g.*, pages 1-8).

Independent claim 150 recites a system for performing a method for generating a

variation of digital information. The system comprises means for producing a second instance of

digital information that is based on a first instance of the digital information (*see e.g.*, page 10,

lines 6-27; page 11, lines 12-20; page 12, lines 7-25; page 16, lines 10-26; page 18, lines 20-27;

pages 19-20; FIG. 1). The first instance includes a first portion and a second portion (*see e.g.*,

page 8, lines 3-26; page 11, lines 12-20; FIG. 1). The first portion includes functional data used

in performing a computerized function or feature, and at least one aspect of performing the

function is affected by a parameter setting (*see e.g.*, page 10, lines 6-27; page 11, lines 12-20;

page 12, lines 7-25; page 16, lines 10-26; page 18, lines 20-27; pages 19-20; FIG. 1). The second

portion includes at least the parameter setting (*id.*). The second instance of the digital

information includes the functional data and the parameter setting from the first instance (*id.*).

The second instance is produced in response to a copying event or a purchasing event for the

digital information (*id.*). The system also comprises means for changing the parameter setting in

the second instance (*id.*) The changing is determined by using parameter setting change data, and

the changing is linked to the copying event or the purchasing event (*id.*). Therefore by changing

the parameter setting in the second instance, the computerized function or enabled features of the

second instance can be varied or improved to, *inter alia*, promote redistribution and/or purchase

of the second instance. (*See e.g.*, pages 1-8).

Independent claim 174 recites a method for generating a variation of digital information. According to the method, an instance of digital information is passed to a user. The instance includes a first portion and a second portion (*see e.g.*, page 18, lines 20-27; pages 19-20; FIG. 1). The first portion includes functional data used in performing a computerized function or feature, and at least one aspect of performing the function is affected by a parameter setting (*id.*). The second portion includes at least the parameter setting (*id.*). The method also enables the user to purchase of the instance of digital information (*id.*). In response to the purchase, the parameter setting is changed by using parameter setting change data (*id.*). Therefore by changing the parameter setting in the instance, the computerized function or enabled features of the instance can be varied or improved to, *inter alia*, promote redistribution and/or purchase of the instance. (*See e.g.*, pages 1-8).

To the extent that any of the claims recite means-plus-function or step-plus-function limitations, at least some of the applicable structure, material, or acts from the specification and drawings are referenced above.

VI.   Grounds of Rejection to be Reviewed on Appeal (37 C.F.R. § 41.37(c)(1)(vi))

The issues for review in this Appeal arise from a Final Rejection of the Application that was mailed on May 12, 2005 (the "Final Rejection"). In the Final Rejection, the Examiner rejects claims 58, 128, and 150 under the second paragraph of 35 U.S.C. § 112, as allegedly being indefinite for providing insufficient antecedent support for recited limitations. (Paper No. 10, page 2). The Examiner also rejects claims 58, 62-81, 128, 132-144, 146-150, and 154-194 under 35 U.S.C. § 103(a), as allegedly being unpatentable over the teachings of U.S. Patent 5,363,483 to Jones *et al.* (herein referred to as "Jones") in view of U.S. Patent 5,084,790 to Endoh (herein

referred to as "Endoh"). (Paper No. 10, page 3). A copy of each of the aforementioned

documents is attached for the Boards' convenience.

In light of the foregoing, the issues in this Appeal are as follows:

Issue No. 1: Did the Examiner err in finally rejecting claims 58, 128, and 150 as being

indefinite under the second paragraph of 35 U.S.C. § 112?

Issue No. 2: Did the Examiner err in finally rejecting claims 58, 62-81, 128, 132-144,

146-150, and 154-194 as being unpatentable under 35 U.S.C. § 103(a)?

As set forth in detail below, the answer to both of these questions is a resounding "yes",

and therefore the Final Rejection should be reversed in all respects.

VII.   Argument (37 C.F.R. § 41.37(c)(1)(vii))

The Board should reverse the Examiner's rejection because, as discussed further below, it

is based on an erroneous and unsupportable reading of the applied documents or applicable

claims. For the purpose of this Appeal, the pending claims 58, 62-81, 128, 132-144, 146-150,

and 154-194 do not stand or fall together. The reasons Appellant believes the claims of this

group are separately patentable are explained herein below.

A.   The Section 112 Rejection of Claims 58, 128, and 150

In the Final Rejection, the Examiner rejects claims 58, 128, and 150 under the second

paragraph of 35 U.S.C. § 112, as allegedly being indefinite. (Paper No. 10, page 2). Specifically,

the Examiner asserts that there is insufficient antecedent basis for the limitation "producing a

second instance of digital information" in claims 58, 128, 150. *Id.* The Examiner further asserts

that a "first instance of digital information was never produced." *Id.* Appellant respectfully

traverses.

Appellant appeals this rejection on the ground that the above limitation is supported in each of claims 58, 128, and 150. With respect to claim 58, the language "based on a first instance of digital information" appears in claim 58, and provides antecedent support for "a second instance of digital information." With respect to claim 128, the language "based on the first instance" appears in claim 128, and provides antecedent support for "a second instance of digital information." With respect to claim 150, the language "based on a first instance of digital information" appears in claim 150, and provides antecedent support for "a second instance of digital information." Therefore, the Examiner's conclusion is erroneous, and the rejections of claims 58, 128, and 150 should be reversed.

B.   The Section 103 Rejection of Claims 58, 62-81, 128, 132-144, 146-150, and 154-194

In the Final Rejection, the Examiner rejects claims 58, 62-81, 128, 132-144, 146-150, and 154-194 under 35 U.S.C. § 103(a), as allegedly being unpatentable over Jones in view Endoh. (Paper No. 10, page 3).

Appellant appeals this rejection on the ground that neither Jones nor Endoh, taken alone or in combination, teaches or suggests each and every element, limitation, and/or feature of claims 58, 62-81, 128, 132-144, 146-150, and 154-194. The Examiner's rejection of each claim is discussed in greater detail below.

1.   Independent Claim 58

Independent claim 58 recites:

> A method for generating a variation of digital information, the method comprising:
>   producing a second instance of digital information based on a first instance of digital information, the first digital information instance having a first portion of functional data used in performing a computerized function, at least one aspect of performing the function being affected by a parameter setting, and a second portion of data

including at least the parameter setting, the second instance of digital
information including the functional data and the parameter setting,
the producing being in response to a copying or purchasing event for
the digital information;

changing the parameter setting in the second digital
information instance, the changing being determined using parameter
setting change data and being linked to the copying or purchasing
event.

In the Final Rejection, the Examiner asserts that Jones allegedly discloses a method for

"generating a variation of a digital information instance comprising providing the digital

information instance, the digital information instance having a fist [sic] portion of functional data

used in performing a computerized function, at least one aspect of performing the function being

affected by a parameter setting, and a second portion of data including at least the parameter

setting; and changing the parameter setting in response to a circumstance as determined using

parameter setting change data," as allegedly recited in claim 58, but concedes that Jones does not

disclose "an inventive concept of producing a second instance of digital information on a first

instance of digital information, the instance of digital information including the functional data

and the parameter setting, the producing in response to a copying or purchasing event for the

digital information." (Paper No. 10, page 3). The Examiner further asserts that Endoh allegedly

discloses "producing a second instance of digital information on a first instance of digital

information, the instance of digital information including the functional data and the parameter

setting, the producing in response to a copying or purchasing event for the digital [sic] for the

digital information," and provides motivation to "facilitate the reproduction of digital

information." (Paper No. 10, pages 3-4). Appellant respectfully traverses.

The Examiner has reconstructed independent claim 58 by disregarding some recited

features and while re-characterizing other recited features. For example, contrary to the

Examiner's assertions, claim 58 does not recite "changing the parameter setting in response to a

circumstance as determined using parameter setting change data." Claim 58 recites "changing

the parameter setting *in the second digital information instance*, the changing being determined

using parameter setting change data *and being linked to the copying or purchasing event*," which

is not taught or suggested by Jones and/or Endoh as explained below. More specifically, claim

58 recites that the "parameter changing" occurs in the second instance, which is also not taught

or suggested by Jones and/or Endoh as explained below. The parameter changing does not occur

in the first instance, as incorrectly asserted by the Examiner.

Additionally, the parameter changing is determined by using parameter setting changing

data, and the parameter changing is linked to the copying or purchasing event, which is not

taught or suggested by Jones and/or Endoh as explained below. In the Final Rejection, the

Examiner makes no reference to "the changing…being linked to the copying or purchasing

event," and provides no documentation to teach or suggest this feature. Therefore, the Examiner

has failed to consider all features of claim 58, and improperly re-constructed the features of

claim 58 that the Examiner has considered.

Referring specifically to claim 58, Jones does not teach or suggest, alone or in

combination with Endoh, "digital information instance having a first portion of functional data

used in performing a computerized function, at least one aspect of performing the function being

affected by a parameter setting," as recited in claim 58. Although the Examiner asserts that

Jones discloses "digital information instance having a fist [sic] portion of functional data used in

performing a computerized function, at least one aspect of performing the function being

affected by a parameter setting," the passages that the Examiner relies upon to support this

assertion make no reference to a parameter setting that affects at least one aspect of performing a

computerized function. Specifically, Jones discusses a system and technique for displaying and

updating the display of an object in a computer system. (See abstract, column 1 lines 48-68, and

column 5 lines 60 to column 6 lines 59). Jones defines an object as being "rectangles, circles,

and triangles." (Column 1, lines 14-16). There is no discussion in Jones of its object having

functional data used in performing a computerized function or having a parameter setting that

affects at least one aspect of performing the function. Even if Jones taught or suggested such

parameter setting (which it does not and Appellant does not concede), there is no discussion or

suggestion of changing the parameter setting, which would also result in a change in the

computerized function. No type of digital rights management is discussed or suggested.

Endoh fails to cure the deficiencies of Jones since Endoh likewise does not teach or

suggest "digital information instance having a first portion of functional data used in performing

a computerized function, at least one aspect of performing the function being affected by a

parameter setting." The Examiner has cited Endoh to disclose "producing a second instance of

digital information on a first instance of digital information, the instance of digital information

including the functional data and the parameter setting, the producing in response to a copying or

purchasing event for the digital [sic] for the digital information." (Paper No. 10, page 3). This

assertion, however, is erroneous. The passages relied upon by the Examiner to support this

assertion make no reference to a digital information instance having a first portion of functional

data used in performing a computerized function, nor is any reference made to a parameter

setting that affects at least one aspect of performing the computerized function. Endoh discusses

a system for recording or reproducing a digital audio tape. (Column 2 lines 35 to column 3 lines

56). More specifically, Endoh discusses a digital audio tape recorder (*see* FIG. 1, element 11)

that "comprises a recording/reproducing section 12, a signal processing section 13 and a

microcomputer 15 with a built-in inhibition releasing section 14. Numeral 16 [as illustrated in

FIG. 1] is an input terminal which is supplied with digital reproduction data from a compact disk

player, another digital audio tape recorder or a satellite broadcast receiver." (Col. 2, lines 46-53).

A blank tape 18 with no information signal recorded thereon and a point tape 19 having copy

restriction removing data and specific data recorded thereon are selectively mounted in

recording/reproducing section 12. (Col. 2, lines 55-60). If a digital reproduction data having no

copy inhibition data is supplied to input terminal 16, the data is supplied through signal

processing section 13 to recording/reproducing section 12. (Col. 3, lines 1-12). Since no copy

inhibition data is detected, a release signal is generated and supplied through inhibition releasing

section 14 to recording/reproducing section 12, and the digital reproduction data is recorded on

blank tape 18. (Col. 3, lines 1-12). Therefore, in this scenario, the digital reproduction data from

input terminal 16 is copied onto blank tape 18. Endoh makes no reference to the digital

reproduction data (from input terminal 16 or blank tape 18) having "functional data used in

performing a computerized function" or "a parameter setting that affects at least one aspect of

performing the computerized function."

Endoh also discusses that if digital reproduction data with copy inhibition data is supplied

to input terminal 16, the microcomputer 15 would detect the copy inhibition data, generate an

inhibit signal, and supply it through inhibition releasing section 14 to recording/reproducing

section 12. (Col. 3, lines 13-18). If a user mounts a point tape 19 in recording/reproducing

section 12, the contents of point tape 19 are supplied through signal processing section 13 to

microcomputer 15, which in turn stores a "point number" in a memory incorporated in

microcomputer 15. (Col. 3, lines 45-57). Microcomputer 15 then controls inhibition releasing

section 14 to generate a release signal, thereby releasing the copy inhibition. (Col. 3, lines 58-

68). If the user removes point tape 19 and mounts blank tape 18 in the recording/reproducing

section 12, the digital reproduction data supplied to input terminal 16 is copied on blank tape 18. (Col. 4, lines 1-5). The point number stored by microcomputer 15 determines the amount of time allowed to copy the digital reproduction data, and microcomputer 15 decrements the point number for each elapsed minute. (Col. 4, lines 6-11). Should the point number become "0," microcomputer 15 causes inhibition releasing section 14 to generate an inhibit signal to recording/reproducing section 12 to inhibit the copying operation. (Col. 4, lines 12-15). Otherwise when the copying is completed, the user removes blank tape 18 and mounts point tape 19 in recording/reproducing section 12. (Col. 4, lines 16-21). Microcomputer 15 records the remaining value of the point number onto point tape 19. (Col. 4, lines 22-26). Once again, Endoh makes no reference to the digital reproduction data (from input terminal 16 or blank tape 18) having "functional data used in performing a computerized function" or "a parameter setting that affects at least one aspect of performing the computerized function." Additionally, Endoh makes no reference to the "point number" recorded onto point tape 19 having "functional data used in performing a computerized function" or "a parameter setting that affects at least one aspect of performing the computerized function." Even if Endoh taught or suggested such parameter setting (which it does not and Appellant does not concede), there is no discussion or suggestion of changing the parameter setting in a second instance of digital information, which would also result in a change in the computerized function of the second instance. Indeed, the point of Endoh is to accurately and fully reproduce the content of one audio tape onto another, without any changes. No such discussion or suggestion of digital rights management is provided by Endoh.

Even if Jones or Endoh, alone or in combination with each other, taught or suggested a "digital information instance having a first portion of functional data used in performing a

computerized function, at least one aspect of performing the function being affected by a parameter setting" (which they do not and Appellant does not concede), the Examiner has failed to provide any motivation or suggestion for combining the two documents to suggest the invention recited in claim 58. In the Final Rejection, the Examiner asserts that the motivation for combining Jones with Endoh to disclose "producing a second instance of digital information" is to "facilitate the reproduction of digital information." (Paper No. 10, page 4). The Examiner has explicitly restated a portion of a recited feature of the Appellant's invention as the motivation for practicing the Appellant's invention. Since the Examiner has provided no motivation independent of the recited features of Appellant's claims, the Examiner's conclusion of obviousness is based on improper hindsight reasoning. (See MPEP § 2145.X.A).

Moreover, the Examiner's statement of motivation indicates a fundamental misunderstanding of the claimed subject matter and the relevant art(s). The Examiner's statement of motivation (to 'facilitate the reproduction of digital information") is logically flawed because it would encourage unauthorized reproduction and infringement of copyrightable property. One ordinarily skilled in the relevant art(s) would not seek to combine references to develop systems or methods that encourage the infringement of copyrighted works. Referring back to claim 58, the first instance of digital information and the second instance digital information contain functional data that can be used to perform "distinct" computerized functions. By changing the parameter setting in the second instance, the computerized function for the second instance can likewise be changed. Therefore, depending on whether the digital information has been copied or purchased, the computerized functions can be changed to, *e.g.*, restrict or enable access to advanced features, as discussed above. Claim 58 is not directed to merely "facilitating the reproduction of digital information," but rather to managing the types of features or

computerized functions that can be made available in, *e.g.*, copied or purchased instances of

digital information. Thus, the claim subject matter of claim 58 is not disclosed by Jones and/or

Endoh, and a discussion of this subject matter is missing from the Examiner's statements in the

Final Rejection.

For at least the reasons stated above, the rejection of claim 58 should be reversed.

Claims 62-81 depend from claim 58, directly or indirectly. Thus, these claims are

patentable for at least the reasons provided above with respect to claim 58. These claims are

further patentable for at least the reason provided below.

2. *Independent Claim 128*

Independent claim 128 recites:

> A system for generating a variation of digital information, the system
> comprising:
> a memory device for storing a first digital information
> comprising:
> a first portion of functional data used in performing a
> computerized function, at least one aspect of performing the function
> being affected by a parameter setting;
> a second portion of data including at least the parameter
> setting; and
> a computerized processor programmed to:
> produce a second instance of digital information based
> on the first instance, the second instance of digital information
> including the functional data and the parameter setting, the
> producing being in response to a copying or purchasing event
> for the digital information;
> change the parameter setting in the second digital
> information instance, the changing being determined using
> parameter setting change data and being linked to the copying
> or purchasing event.

In Final Rejection, the Examiner asserts that Jones allegedly discloses a

"method/memory/computer/system usable medium for generating a variation of a digital

information instance comprising providing the digital information instance, the digital

information instance having a fist [sic] portion of functional data used in performing a

computerized function, at least one aspect of performing the function being affected by a

parameter setting, and a second portion of data including at least the parameter setting; and

changing the parameter setting in response to a circumstance as determined using parameter

setting change data," as allegedly recited in claim 128, but concedes that Jones does not disclose

"an inventive concept of producing a second instance of digital information on a first instance of

digital information, the instance of digital information including the functional data and the

parameter setting, the producing in response to a copying or purchasing event for the digital

information." (Paper No. 10, page 3). The Examiner further asserts that Endoh allegedly

discloses "producing a second instance of digital information on a first instance of digital

information, the instance of digital information including the functional data and the parameter

setting, the producing in response to a copying or purchasing event for the digital [sic] for the

digital information," and provides motivation to "facilitate the reproduction of digital

information." (Paper No. 10, pages 3-4). Appellant respectfully traverses.

Claim 128 includes features that are similar to claim 58, with additional features such as,

a "memory device" and a programmed "computerized processor." As presented above, neither

Jones nor Endoh, alone or in combination, teaches or suggests, *inter alia*, a "computerized

processor programmable to…change the parameter setting in the second digital information

instance" wherein the digital information instance comprises "a first portion of functional data

used in performing computerized function, at least one aspect of performing the function being

affected by a parameter setting," as recited in claim 128. Jones and Endoh do not teach or

suggest the capability of managing the types of features or computerized functions that can be

made available in, *e.g.*, copied or purchased instances of "objects" as discussed in Jones or

"audio" as discussed in Endoh.

For at least the reasons stated above, the rejection of claim 128 should be reversed.

Claims 132-144 and 146-149 depend from claim 128, directly or indirectly. Thus, these

claims are patentable for at least the reasons provided above with respect to claim 128. These

claims are further patentable for at least the reason provided below.

3. *Independent Claim 150*

Independent claim 150 recites:

> A system for performing a method for generating a variation of digital
> information, the system comprising:
> means for producing a second instance of digital information
> based on a first instance of digital information, the first digital
> information instance having a first portion of functional data used in
> performing a computerized function, at least one aspect of performing
> the function being affected by a parameter setting, and a second
> portion of data including at least the parameter setting, the second
> instance of digital information including the functional data and the
> parameter setting, the producing being in response to a copying or
> purchasing event for the digital information; and
> means for changing the parameter setting in the second digital
> information instance, the changing being determined using parameter
> setting change data and being linked to the copying or purchasing
> event.

In Final Rejection, the Examiner asserts that Jones allegedly discloses a

"method/memory/computer/system usable medium for generating a variation of a digital

information instance comprising providing the digital information instance, the digital

information instance having a fist [sic] portion of functional data used in performing a

computerized function, at least one aspect of performing the function being affected by a

parameter setting, and a second portion of data including at least the parameter setting; and

changing the parameter setting in response to a circumstance as determined using parameter

setting change data," as allegedly recited in claim 150, but concedes that Jones does not disclose "an inventive concept of producing a second instance of digital information on a first instance of digital information, the instance of digital information including the functional data and the parameter setting, the producing in response to a copying or purchasing event for the digital information." (Paper No. 10, page 3). The Examiner further asserts that Endoh allegedly discloses "producing a second instance of digital information on a first instance of digital information, the instance of digital information including the functional data and the parameter setting, the producing in response to a copying or purchasing event for the digital [sic] for the digital information," and provides motivation to "facilitate the reproduction of digital information." (Paper No. 10, pages 3-4). Appellant respectfully traverses.

Claim 150 includes features that are similar to claim 58, with additional features such as, "means for producing a second instance of digital information based on a first instance of digital information" and "means for changing the parameter setting in the second digital information instance." As presented above, neither Jones nor Endoh, alone or in combination, teaches or suggests, *inter alia*, "changing the parameter setting in the second digital information instance" wherein the digital information instance includes "a first portion of functional data used in performing a computerized function," as recited in claim 150. Jones and Endoh do not teach or suggest the capability of managing the types of features or computerized functions that can be made available in, *e.g.*, copied or purchased instances of "objects" as discussed in Jones or "audio" as discussed in Endoh.

For at least the reasons stated above, the rejection of claim 150 should be reversed.

Claims 154-173 depend from claim 150, directly or indirectly. Thus, these claims are

patentable for at least the reasons provided above with respect to claim 150. These claims are

further patentable for at least the reason provided below.

4.   *Independent Claim 174*

Independent claim 174 recites:

> A method for generating a variation of digital information, the method
> comprising:
>   passing an instance of digital information to a user, the
> instance having a first portion of functional data used in performing a
> computerized function, at least one aspect of performing the function
> being affected by a parameter setting, and a second portion of data
> including at least the parameter setting;
>   enabling purchase of the instance by the user; and
>   changing the parameter setting, the changing being determined
> using parameter setting change data and being in response to the
> purchase.

In Final Rejection, the Examiner erroneously asserts that claim 174 depends from one of

independent claims 58, 128, and 150. (Paper No. 10, page 4). Claim 174 is an independent claim.

The Examiner has not provided a proper basis for rejecting claim 174. Therefore, the Final

Rejection is incomplete.

Nonetheless, the Examiner further asserts claim 174 discloses an inventive concept

related to claims 58, 128, and 150. Although Appellant does not acquiesce or deny this assertion,

Jones and Endoh do not teach or suggest, alone or in combination, the features of claim 174. For

example, Jones and Endoh do not teach or suggest, alone or in combination, "enabling purchase

of the instance by the user." The "object" of Jones is displayed at a computer display, and the

"audio" of Endoh is recorded to a digital audio tape, but no reference is made in either document

about enabling the purchase of objects or audio.

Furthermore, even if Jones and Endoh, alone or in combination, taught or suggested "enabling purchase of the instance by the user" (which they do not and Appellant does not concede), the documents do not teach or suggest "changing the parameter setting" in an instance of digital information "having a first portion of functional data used in performing a computerized function," as recited in claim 174. As discussed above with reference to claim 58, Jones and Endoh do not teach or suggest the capability of managing the types of features or computerized functions that can be made available in, *e.g.*, a "purchased" instance of "objects" as discussed in Jones or "audio" as discussed in Endoh.

For at least the reasons stated above, the rejection of claim 174 should be reversed.

Claims 175-194 depend from claim 174, directly or indirectly. Thus, these claims are patentable for at least the reasons provided above with respect to claim 174. These claims are further patentable for at least the reason provided below.

5.   *Claim 62*

Claim 62 depends directly from claim 58. Therefore, claim 62 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 62 recites "changing the parameter setting in the second digital information instance comprises changing in response to an event based on an amount of time related to the second digital information instance." In the Final Rejection, the Examiner asserts that claim 62 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this

time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 62.

For at least these reasons, the rejection of claim 62 should be reversed.

6.   *Claim 63*

Claim 63 depends directly from claim 62, which depends directly from claim 58. Therefore, claim 63 is patentable for at least the reasons provided above with respect to the rejection of claims 58 and 62.

Furthermore, claim 63 recites "changing in response to an event based on an amount of time comprises changing in response to a duration of time the second digital information instance has been used in performing the computerized function." In the Final Rejection, the Examiner asserts that claim 63 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 63.

For at least these reasons, the rejection of claim 63 should be reversed.

7.   *Claim 64*

Claim 64 depends directly from claim 58. Therefore, claim 64 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 64 recites "changing the parameter setting in the second digital information instance comprises changing in a probabilistic manner." In the Final Rejection, the Examiner asserts that claim 64 discloses an inventive concept related to independent claim 58.

(Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 64.

For at least these reasons, the rejection of claim 64 should be reversed.

8. *Claim 65*

Claim 65 depends directly from claim 58. Therefore, claim 65 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 65 recites "changing the parameter setting in the second digital information instance comprises changing according to information transmitted from a server." In the Final Rejection, the Examiner asserts that claim 65 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 65.

For at least these reasons, the rejection of claim 65 should be reversed.

9. *Claim 66*

Claim 66 depends directly from claim 65, which depends directly from claim 58. Therefore, claim 66 is patentable for at least the reasons provided above with respect to the rejection of claims 58 and 65.

Furthermore, claim 66 recites "changing according to information transmitted from a server comprises using the information transmitted to prevent future changes to the parameter setting of the second digital information instance." In the Final Rejection, the Examiner asserts that claim 66 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 66.

For at least these reasons, the rejection of claim 66 should be reversed.

10.   Claim 67

Claim 67 depends directly from claim 65, which depends directly from claim 58. Therefore, claim 67 is patentable for at least the reasons provided above with respect to the rejection of claims 58 and 65.

Furthermore, claim 67 recites "changing according to information transmitted from a server comprises using the information transmitted to prevent future changes to a parameter setting of a copy of the second digital information instance." In the Final Rejection, the Examiner asserts that claim 67 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 67.

For at least these reasons, the rejection of claim 67 should be reversed.

11.   Claim 68

Claim 68 depends directly from claim 58. Therefore, claim 68 is patentable for at least

the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 68 recites "the second digital information instance is executable." In

the Final Rejection, the Examiner asserts that claim 68 discloses an inventive concept related to

independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular

passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not

fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and

Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 68.

For at least these reasons, the rejection of claim 68 should be reversed.

12.   Claim 69

Claim 69 depends directly from claim 58. Therefore, claim 68 is patentable for at least

the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 69 recites "the second digital information instance is non-

executable." In the Final Rejection, the Examiner asserts that claim 69 discloses an inventive

concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites

no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 69.

For at least these reasons, the rejection of claim 69 should be reversed.

13.   Claim 70

Claim 70 depends directly from claim 58. Therefore, claim 70 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 70 recites "the first portion of functional data in the second digital information instance is not physically distinct from the second portion of data in the second digital information instance." In the Final Rejection, the Examiner asserts that claim 70 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 70.

For at least these reasons, the rejection of claim 70 should be reversed.

14.   Claim 71

Claim 71 depends directly from claim 58. Therefore, claim 71 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 71 recites "the first portion of functional data in the second digital information instance is a data structure and wherein the second portion of data in the second digital information instance is stored within the data structure." In the Final Rejection, the Examiner asserts that claim 71 discloses an inventive concept related to independent claim 58.

(Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 71.

For at least these reasons, the rejection of claim 71 should be reversed.

15.   Claim 72

Claim 72 depends directly from claim 71, which depends directly from claim 58. Therefore, claim 72 is patentable for at least the reasons provided above with respect to the rejection of claims 58 and 71.

Furthermore, claim 72 recites "the data structure represents an image." In the Final Rejection, the Examiner asserts that claim 72 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 72.

For at least these reasons, the rejection of claim 72 should be reversed.

16.   Claim 73

Claim 73 depends directly from claim 58. Therefore, claim 73 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 73 recites "the second digital information instance performs the computerized function." In the Final Rejection, the Examiner asserts that claim 73 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 73.

For at least these reasons, the rejection of claim 73 should be reversed.

17. Claim 74

Claim 74 depends directly from claim 58. Therefore, claim 74 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 74 recites "the second digital information instance does not perform the computerized function." In the Final Rejection, the Examiner asserts that claim 74 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 74.

For at least these reasons, the rejection of claim 74 should be reversed.

18. Claim 75

Claim 75 depends directly from claim 74, which depends directly from claim 58.

Therefore, claim 75 is patentable for at least the reasons provided above with respect to the

rejection of claims 58 and 74.

Furthermore, claim 75 recites "providing software or hardware capable of using the

functional data in the second digital information instance to perform the computerized function."

In the Final Rejection, the Examiner asserts that claim 75 discloses an inventive concept related

to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular

passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not

fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and

Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 75.

For at least these reasons, the rejection of claim 75 should be reversed.

19. Claim 76

Claim 76 depends directly from claim 58. Therefore, claim 76 is patentable for at least

the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 76 recites "changing the parameter setting in the second digital

information instance comprises changing in response to an event based on an amount of time

related to the second digital information instance." In the Final Rejection, the Examiner asserts

that claim 76 discloses an inventive concept related to independent claim 58. (Paper No. 10, page

4). However, the Examiner cites no particular passage from Jones or Endoh to support the

Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this

claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this

time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 76.

For at least these reasons, the rejection of claim 76 should be reversed.

20.   *Claim 77*

Claim 77 depends directly from claim 58. Therefore, claim 77 is patentable for at least the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 77 recites "transmitting the parameter setting change data in the second digital information instance from a server." In the Final Rejection, the Examiner asserts that claim 77 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 77.

For at least these reasons, the rejection of claim 77 should be reversed.

21.   *Claim 78*

Claim 78 depends directly from claim 58. Therefore, claim 78 is patentable for at least the reasons provided above with respect to the rejection of claim 78.

Furthermore, claim 78 recites "the first digital information instance is received by a user." In the Final Rejection, the Examiner asserts that claim 78 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 78.

For at least these reasons, the rejection of claim 78 should be reversed.

22. Claim 79

Claim 79 depends directly from claim 58. Therefore, claim 79 is patentable for at least

the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 79 recites "the first digital information instance is communicated to a

user." In the Final Rejection, the Examiner asserts that claim 79 discloses an inventive concept

related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no

particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 79.

For at least these reasons, the rejection of claim 79 should be reversed.

23. Claim 80

Claim 80 depends directly from claim 58. Therefore, claim 80 is patentable for at least

the reasons provided above with respect to the rejection of claim 58.

Furthermore, claim 80 recites "the second portion of data in the second digital

information instance includes instance lineage-relevant information." In the Final Rejection, the

Examiner asserts that claim 80 discloses an inventive concept related to independent claim 58.

(Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh

to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 80.

For at least these reasons, the rejection of claim 80 should be reversed.

24. Claim 81

Claim 81 depends directly from claim 80, which depends directly from claim 58. Therefore, claim 81 is patentable for at least the reasons provided above with respect to the rejection of claims 58 and 80.

Furthermore, claim 81 recites "receiving the digital information instance lineage-relevant information at a database; and performing analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the second digital information instance." In the Final Rejection, the Examiner asserts that claim 81 discloses an inventive concept related to independent claim 58. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 81.

For at least these reasons, the rejection of claim 81 should be reversed.

25. Claim 132

Claim 132 depends directly from claim 128. Therefore, claim 132 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 132 recites "the parameter setting in the second digital information instance is changeable in response to an event based on an amount of time related to the second digital information instance." In the Final Rejection, the Examiner asserts that claim 132 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 132.

For at least these reasons, the rejection of claim 132 should be reversed.

26.   *Claim 133*

Claim 133 depends directly from claim 132, which depends directly from claim 128. Therefore, claim 133 is patentable for at least the reasons provided above with respect to the rejection of claims 128 and 132.

Furthermore, claim 133 recites "the parameter setting in the second digital information instance is changeable in response to a duration of time the second digital information instance has been used in performing a computerized function." In the Final Rejection, the Examiner asserts that claim 133 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 133.

For at least these reasons, the rejection of claim 133 should be reversed.

27.   Claim 134

Claim 134 depends directly from claim 128. Therefore, claim 134 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 134 recites "the parameter setting in the second digital information instance is changeable in a probabilistic manner." In the Final Rejection, the Examiner asserts that claim 134 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 134.

For at least these reasons, the rejection of claim 134 should be reversed.

28.   Claim 135

Claim 135 depends directly from claim 128. Therefore, claim 135 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 135 recites "the parameter setting in the second digital information instance is changeable according to information transmitted from a server." In the Final Rejection, the Examiner asserts that claim 135 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 135.

For at least these reasons, the rejection of claim 135 should be reversed.

29.   Claim 136

Claim 136 depends directly from claim 135, which depends directly from claim 128.

Therefore, claim 136 is patentable for at least the reasons provided above with respect to the

rejection of claims 128 and 135.

Furthermore, claim 136 recites "the information transmitted from the server is used to

prevent future changes to the parameter setting of the second digital information instance." In the

Final Rejection, the Examiner asserts that claim 136 discloses an inventive concept related to

independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular

passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not

fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and

Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 136.

For at least these reasons, the rejection of claim 136 should be reversed.

30.   Claim 137

Claim 137 depends directly from claim 135, which depends directly from claim 128.

Therefore, claim 137 is patentable for at least the reasons provided above with respect to the

rejection of claims 128 and 135.

Furthermore, claim 137 recites "the information transmitted from the server is used to

prevent future changes to a parameter setting of a copy of the second digital information

instance." In the Final Rejection, the Examiner asserts that claim 137 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 137.

For at least these reasons, the rejection of claim 137 should be reversed.

31. *Claim 138*

Claim 138 depends directly from claim 128. Therefore, claim 138 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 138 recites "the second digital information instance is executable." In the Final Rejection, the Examiner asserts that claim 138 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 138.

For at least these reasons, the rejection of claim 138 should be reversed.

32. *Claim 139*

Claim 139 depends directly from claim 128. Therefore, claim 139 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 139 recites "the second digital information instance is non-executable." In the Final Rejection, the Examiner asserts that claim 139 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 139.

For at least these reasons, the rejection of claim 139 should be reversed.

33.   Claim 140

Claim 140 depends directly from claim 128. Therefore, claim 140 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 140 recites "the first portion of functional data in the second digital information instance is not physically distinct from the second portion of data in the second digital information instance." In the Final Rejection, the Examiner asserts that claim 140 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 140.

For at least these reasons, the rejection of claim 140 should be reversed.

34.   Claim 141

Claim 141 depends directly from claim 128. Therefore, claim 141 is patentable for at

least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 141 recites "the first portion of functional data in the second digital

information instance comprises a data structure and wherein the second portion of data in the

second digital information instance is stored within the data structure." In the Final Rejection, the

Examiner asserts that claim 141 discloses an inventive concept related to independent claim 128.

(Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh

to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale

for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully

respond at this time. However, it is the Appellant's belief that neither document, alone or in

combination, can be shown to teach or suggest the features of claim 141.

For at least these reasons, the rejection of claim 141 should be reversed.

35. Claim 142

Claim 142 depends directly from claim 141, which depends directly from claim 128.

Therefore, claim 142 is patentable for at least the reasons provided above with respect to the

rejection of claims 128 and 141.

Furthermore, claim 142 recites "the data structure comprises a data structure representing

an image." In the Final Rejection, the Examiner asserts that claim 142 discloses an inventive

concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites

no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 142.

For at least these reasons, the rejection of claim 142 should be reversed.

36.   Claim 143

Claim 143 depends directly from claim 128. Therefore, claim 143 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 143 recites "the second digital information instance uses the first portion of functional data in the second digital information instance to perform the computerized function." In the Final Rejection, the Examiner asserts that claim 143 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 143.

For at least these reasons, the rejection of claim 143 should be reversed.

37.   Claim 144

Claim 144 depends directly from claim 128. Therefore, claim 144 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 144 recites "the second digital information instance does not use the first portion of functional data in the second digital information instance to perform the computerized function." In the Final Rejection, the Examiner asserts that claim 144 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the

Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion.

Since the Examiner has not fully explained the rationale for rejecting this claim, the Final

Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is

the Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 144.

For at least these reasons, the rejection of claim 144 should be reversed.

38.   Claim 146

Claim 146 depends directly from claim 128. Therefore, claim 146 is patentable for at

least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 146 recites "the parameter setting change data is included in the

second portion of data of the second digital information instance." In the Final Rejection, the

Examiner asserts that claim 146 discloses an inventive concept related to independent claim 128.

(Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh

to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale

for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully

respond at this time. However, it is the Appellant's belief that neither document, alone or in

combination, can be shown to teach or suggest the features of claim 146.

For at least these reasons, the rejection of claim 146 should be reversed.

39.   Claim 147

Claim 147 depends directly from claim 128. Therefore, claim 147 is patentable for at

least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 147 recites "the parameter setting change data in the second digital

information instance is transmitted from a server." In the Final Rejection, the Examiner asserts

that claim 147 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 147.

For at least these reasons, the rejection of claim 147 should be reversed.

40.   Claim 148

Claim 148 depends directly from claim 128. Therefore, claim 148 is patentable for at least the reasons provided above with respect to the rejection of claim 128.

Furthermore, claim 148 recites "the second portion of data in the second digital information instance includes digital information instance lineage-relevant information." In the Final Rejection, the Examiner asserts that claim 148 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 148.

For at least these reasons, the rejection of claim 148 should be reversed.

41.   Claim 149

Claim 149 depends directly from claim 148, which depends directly from claim 128. Therefore, claim 149 is patentable for at least the reasons provided above with respect to the rejection of claims 128 and 148.

Furthermore, claim 149 recites "a database, the database effective to receive the digital information instance lineage-relevant information at the database; and wherein the processor performs analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the second digital information instance." In the Final Rejection, the Examiner asserts that claim 149 discloses an inventive concept related to independent claim 128. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 149.

For at least these reasons, the rejection of claim 149 should be reversed.

42. Claim 154

Claim 154 depends directly from claim 150. Therefore, claim 154 is patentable for at least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 154 recites "means for changing the parameter setting in the second digital information instance comprises means for changing in response to an event based on an amount of time related to the second digital information instance." In the Final Rejection, the Examiner asserts that claim 154 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale

for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully

respond at this time. However, it is the Appellant's belief that neither document, alone or in

combination, can be shown to teach or suggest the features of claim 154.

For at least these reasons, the rejection of claim 154 should be reversed.

43.   Claim 155

Claim 155 depends directly from claim 154, which depends directly from claim 150.

Therefore, claim 155 is patentable for at least the reasons provided above with respect to the

rejection of claims 150 and 154.

Furthermore, claim 155 recites "means for changing in response to an event based on an

amount of time comprises means for changing in response to a duration of time the second

digital information instance has been used in performing the computerized function." In the Final

Rejection, the Examiner asserts that claim 155 discloses an inventive concept related to

independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular

passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not

fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and

Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 155.

For at least these reasons, the rejection of claim 155 should be reversed.

44.   Claim 156

Claim 156 depends directly from claim 150. Therefore, claim 156 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 156 recites "means for changing the parameter setting in the second digital information instance comprises means for changing in a probabilistic manner." In the Final Rejection, the Examiner asserts that claim 156 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 156.

For at least these reasons, the rejection of claim 156 should be reversed.

45.   Claim 157

Claim 157 depends directly from claim 150. Therefore, claim 157 is patentable for at least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 157 recites "means for changing the parameter setting in the second digital information instance comprises means for changing according to information transmitted from a server." In the Final Rejection, the Examiner asserts that claim 157 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 157.

For at least these reasons, the rejection of claim 157 should be reversed.

46.   Claim 158

Claim 158 depends directly from claim 157, which depends directly from claim 150. Therefore, claim 158 is patentable for at least the reasons provided above with respect to the rejection of claims 150 and 157.

Furthermore, claim 158 recites "means for changing according to information transmitted from a server comprises means for using the information transmitted to prevent future changes to the parameter setting of the second digital information instance." In the Final Rejection, the Examiner asserts that claim 158 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 158.

For at least these reasons, the rejection of claim 158 should be reversed.

47.   Claim 159

Claim 159 depends directly from claim 157, which depends directly from claim 150. Therefore, claim 159 is patentable for at least the reasons provided above with respect to the rejection of claims 150 and 157.

Furthermore, claim 159 recites "means for changing according to information transmitted from a server comprises means for using the information transmitted to prevent future changes to the parameter setting of a copy of the second digital information instance." In the Final Rejection, the Examiner asserts that claim 159 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular

passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not

fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and

Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 159.

For at least these reasons, the rejection of claim 159 should be reversed.

48.   Claim 160

Claim 160 depends directly from claim 150. Therefore, claim 160 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 160 recites "the second digital information instance is executable." In

the Final Rejection, the Examiner asserts that claim 160 discloses an inventive concept related to

independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular

passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not

fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and

Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that

neither document, alone or in combination, can be shown to teach or suggest the features of

claim 160.

For at least these reasons, the rejection of claim 160 should be reversed.

49.   Claim 161

Claim 161 depends directly from claim 150. Therefore, claim 161 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 161 recites "the second digital information instance is non-

executable." In the Final Rejection, the Examiner asserts that claim 161 discloses an inventive

concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites

no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 161.

For at least these reasons, the rejection of claim 161 should be reversed.

50.   Claim 162

Claim 162 depends directly from claim 150. Therefore, claim 162 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 162 recites "the first portion of functional data in the second digital

information instance is not physically distinct from the second portion of data in the second

digital information instance." In the Final Rejection, the Examiner asserts that claim 162

discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4).

However, the Examiner cites no particular passage from Jones or Endoh to support the

Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this

claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this

time. However, it is the Appellant's belief that neither document, alone or in combination, can be

shown to teach or suggest the features of claim 162.

For at least these reasons, the rejection of claim 162 should be reversed.

51.   Claim 163

Claim 163 depends directly from claim 150. Therefore, claim 163 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 163 recites "the first portion of functional data in the second digital information instance comprises a data structure and wherein the second portion of data in the second digital information instance is stored within the data structure." In the Final Rejection, the Examiner asserts that claim 163 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 163.

For at least these reasons, the rejection of claim 163 should be reversed.

52. Claim 164

Claim 164 depends directly from claim 163, which depends directly from claim 150. Therefore, claim 164 is patentable for at least the reasons provided above with respect to the rejection of claims 150 and 163.

Furthermore, claim 164 recites "the data structure represents an image." In the Final Rejection, the Examiner asserts that claim 164 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 164.

For at least these reasons, the rejection of claim 164 should be reversed.

53. Claim 165

Claim 165 depends directly from claim 150. Therefore, claim 165 is patentable for at least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 165 recites "the second digital information instance performs the computerized function." In the Final Rejection, the Examiner asserts that claim 165 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 165.

For at least these reasons, the rejection of claim 165 should be reversed.

54. Claim 166

Claim 166 depends directly from claim 150. Therefore, claim 166 is patentable for at least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 166 recites "the second digital information instance does not perform the computerized function." In the Final Rejection, the Examiner asserts that claim 166 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 166.

For at least these reasons, the rejection of claim 166 should be reversed.

55.   Claim 167

Claim 167 depends directly from claim 166, which depends directly from claim 150.

Therefore, claim 167 is patentable for at least the reasons provided above with respect to the

rejection of claims 150 and 166.

Furthermore, claim 167 recites "means for providing software or hardware capable of

using the functional data in the second digital information instance to perform the computerized

function." In the Final Rejection, the Examiner asserts that claim 167 discloses an inventive

concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites

no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 167.

For at least these reasons, the rejection of claim 167 should be reversed.

56.   Claim 168

Claim 168 depends directly from claim 150. Therefore, claim 168 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 168 recites "the parameter setting change data in the second digital

information instance is included in the second portion of data of the second digital information

instance." In the Final Rejection, the Examiner asserts that claim 168 discloses an inventive

concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites

no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 168.

For at least these reasons, the rejection of claim 168 should be reversed.

57. Claim 169

Claim 169 depends directly from claim 150. Therefore, claim 169 is patentable for at least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 169 recites "the parameter setting change data in the second digital information instance is transmitted from a server." In the Final Rejection, the Examiner asserts that claim 169 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 169.

For at least these reasons, the rejection of claim 169 should be reversed.

58. Claim 170

Claim 170 depends directly from claim 150. Therefore, claim 170 is patentable for at least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 170 recites "the first digital information instance is received by a user." In the Final Rejection, the Examiner asserts that claim 170 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no

particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 170.

For at least these reasons, the rejection of claim 170 should be reversed.

59. *Claim 171*

Claim 171 depends directly from claim 150. Therefore, claim 171 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 171 recites "the first digital information instance is communicated to

a user." In the Final Rejection, the Examiner asserts that claim 171 discloses an inventive

concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites

no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 171.

For at least these reasons, the rejection of claim 171 should be reversed.

60. *Claim 172*

Claim 172 depends directly from claim 150. Therefore, claim 172 is patentable for at

least the reasons provided above with respect to the rejection of claim 150.

Furthermore, claim 172 recites "the second portion of data in the second digital

information instance includes digital information instance lineage-relevant information." In the

Final Rejection, the Examiner asserts that claim 172 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 172.

For at least these reasons, the rejection of claim 172 should be reversed.

61. Claim 173

Claim 173 depends directly from claim 172, which depends directly from claim 150. Therefore, claim 173 is patentable for at least the reasons provided above with respect to the rejection of claims 150 and 172.

Furthermore, claim 173 recites "means for receiving the digital information instance lineage-relevant information at a database; and means for performing analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the second digital information instance." In the Final Rejection, the Examiner asserts that claim 173 discloses an inventive concept related to independent claim 150. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 173.

For at least these reasons, the rejection of claim 173 should be reversed.

62.   Claim 175

Claim 175 depends directly from claim 174. Therefore, claim 175 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 175 recites "the digital information instance is executable." In the Final Rejection, the Examiner asserts that claim 175 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 175 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 175.

For at least these reasons, the rejection of claim 175 should be reversed.

63.   Claim 176

Claim 176 depends directly from claim 174. Therefore, claim 176 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 176 recites "changing the parameter setting comprises changing in response to an event based on an amount of time related to the digital information instance." In the Final Rejection, the Examiner asserts that claim 176 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 176 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to

more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 176.

For at least these reasons, the rejection of claim 176 should be reversed.

64. Claim 177

Claim 177 depends directly from claim 176, which depends directly from claim 174. Therefore, claim 177 is patentable for at least the reasons provided above with respect to the rejection of claims 174 and 176.

Furthermore, claim 177 recites "changing in response to an event based on an amount of time comprises changing in response to a duration of time the digital information instance has been used in performing the computerized function." In the Final Rejection, the Examiner asserts that claim 177 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 177 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 177.

For at least these reasons, the rejection of claim 177 should be reversed.

65. Claim 178

Claim 178 depends directly from claim 174. Therefore, claim 178 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 178 recites "changing the parameter setting comprises changing in a probabilistic manner." In the Final Rejection, the Examiner asserts that claim 178 discloses an

inventive concept related to independent claims 58, 128, and 150, even though claim 178 does

not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no

particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 178.

For at least these reasons, the rejection of claim 178 should be reversed.

66. Claim 179

Claim 179 depends directly from claim 174. Therefore, claim 179 is patentable for at

least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 179 recites "changing the parameter setting comprises changing

according to information transmitted from a server." In the Final Rejection, the Examiner asserts

that claim 179 discloses an inventive concept related to independent claims 58, 128, and 150,

even though claim 179 does not depend from any of these claims. (Paper No. 10, page 4).

However, the Examiner cites no particular passage from Jones or Endoh to support the

Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this

claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this

time. However, it is the Appellant's belief that neither document, alone or in combination, can be

shown to teach or suggest the features of claim 179.

For at least these reasons, the rejection of claim 179 should be reversed.

67. Claim 180

Claim 180 depends directly from claim 179, which depends directly from claim 174. Therefore, claim 180 is patentable for at least the reasons provided above with respect to the rejection of claims 174 and 179.

Furthermore, claim 180 recites "changing according to information transmitted from a server comprises using the information transmitted to prevent future changes to the parameter setting of the digital information instance." In the Final Rejection, the Examiner asserts that claim 180 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 180 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 180.

For at least these reasons, the rejection of claim 180 should be reversed.

68.   Claim 181

Claim 181 depends directly from claim 179, which depends directly from claim 174. Therefore, claim 181 is patentable for at least the reasons provided above with respect to the rejection of claims 174 and 179.

Furthermore, claim 181 recites "changing according to information transmitted from a server comprises using the information transmitted to prevent future changes to a parameter setting of a copy of the digital information instance." In the Final Rejection, the Examiner asserts that claim 181 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 181 does not depend from any of these claims. (Paper No. 10, page 4).

However, the Examiner cites no particular passage from Jones or Endoh to support the

Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this

claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this

time. However, it is the Appellant's belief that neither document, alone or in combination, can be

shown to teach or suggest the features of claim 181.

For at least these reasons, the rejection of claim 181 should be reversed.

69. Claim 182

Claim 182 depends directly from claim 174. Therefore, claim 182 is patentable for at

least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 182 recites "the digital information instance is non-executable." In

the Final Rejection, the Examiner asserts that claim 182 discloses an inventive concept related to

independent claims 58, 128, and 150, even though claim 182 does not depend from any of these

claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or

Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the

rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to

more fully respond at this time. However, it is the Appellant's belief that neither document, alone

or in combination, can be shown to teach or suggest the features of claim 182.

For at least these reasons, the rejection of claim 182 should be reversed.

70. Claim 183

Claim 183 depends directly from claim 174. Therefore, claim 183 is patentable for at

least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 183 recites "the first portion of functional data in the digital

information instance is not physically distinct from the second portion of data in the digital

information instance." In the Final Rejection, the Examiner asserts that claim 183 discloses an

inventive concept related to independent claims 58, 128, and 150, even though claim 183 does

not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no

particular passage from Jones or Endoh to support the Examiner's conclusion. Since the

Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is

incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or

suggest the features of claim 183.

For at least these reasons, the rejection of claim 183 should be reversed.

71.   Claim 184

Claim 184 depends directly from claim 174. Therefore, claim 184 is patentable for at

least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 184 recites "the first portion of functional data in the digital

information instance is a data structure and wherein the second portion of data in the digital

information instance is stored within the data structure." In the Final Rejection, the Examiner

asserts that claim 184 discloses an inventive concept related to independent claims 58, 128, and

150, even though claim 184 does not depend from any of these claims. (Paper No. 10, page 4).

However, the Examiner cites no particular passage from Jones or Endoh to support the

Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this

claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this

time. However, it is the Appellant's belief that neither document, alone or in combination, can be

shown to teach or suggest the features of claim 184.

For at least these reasons, the rejection of claim 184 should be reversed.

72.   Claim 185

Claim 185 depends directly from claim 174. Therefore, claim 185 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 185 recites "the data structure represents an image." In the Final Rejection, the Examiner asserts that claim 185 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 185 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 185.

For at least these reasons, the rejection of claim 185 should be reversed.

73.   Claim 186

Claim 186 depends directly from claim 174. Therefore, claim 186 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 186 recites "the digital information instance performs the computerized function." In the Final Rejection, the Examiner asserts that claim 186 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 186 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the

Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 186.

For at least these reasons, the rejection of claim 186 should be reversed.

74.   Claim 187

Claim 187 depends directly from claim 174. Therefore, claim 187 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 187 recites "the digital information instance does not perform the computerized function." In the Final Rejection, the Examiner asserts that claim 187 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 187 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 187.

For at least these reasons, the rejection of claim 187 should be reversed.

75.   Claim 188

Claim 188 depends directly from claim 174. Therefore, claim 188 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 188 recites "providing software or hardware capable of using the functional data to perform the computerized function." In the Final Rejection, the Examiner asserts that claim 188 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 188 does not depend from any of these claims. (Paper No. 10, page 4).

However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 188.

For at least these reasons, the rejection of claim 188 should be reversed.

76.   Claim 189

Claim 189 depends directly from claim 174. Therefore, claim 189 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 189 recites "including the parameter setting change data in the second portion of data of the digital information instance." In the Final Rejection, the Examiner asserts that claim 189 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 189 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 189.

For at least these reasons, the rejection of claim 189 should be reversed.

77.   Claim 190

Claim 190 depends directly from claim 174. Therefore, claim 190 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 190 recites "transmitting the parameter setting change data from a server." In the Final Rejection, the Examiner asserts that claim 190 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 190 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 190.

For at least these reasons, the rejection of claim 190 should be reversed.

78. *Claim 191*

Claim 191 depends directly from claim 174. Therefore, claim 191 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 191 recites "the digital information instance is received by a user." In the Final Rejection, the Examiner asserts that claim 191 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 191 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 191.

For at least these reasons, the rejection of claim 191 should be reversed.

79. *Claim 192*

Claim 192 depends directly from claim 174. Therefore, claim 192 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 192 recites "the digital information instance is communicated to a user." In the Final Rejection, the Examiner asserts that claim 192 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 192 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 192.

For at least these reasons, the rejection of claim 192 should be reversed.

80. Claim 193

Claim 193 depends directly from claim 174. Therefore, claim 193 is patentable for at least the reasons provided above with respect to the rejection of claim 174.

Furthermore, claim 193 recites "the second portion of data in the digital information instance includes instance lineage-relevant information." In the Final Rejection, the Examiner asserts that claim 193 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 193 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 193.

For at least these reasons, the rejection of claim 193 should be reversed.

81.   Claim 194

Claim 194 depends directly from claim 193, which depends directly from claim 174. Therefore, claim 194 is patentable for at least the reasons provided above with respect to the rejection of claims 174 and 193.

Furthermore, claim 194 recites "receiving the digital information instance lineage-relevant information at a database; and performing analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the digital information instance." In the Final Rejection, the Examiner asserts that claim 194 discloses an inventive concept related to independent claims 58, 128, and 150, even though claim 194 does not depend from any of these claims. (Paper No. 10, page 4). However, the Examiner cites no particular passage from Jones or Endoh to support the Examiner's conclusion. Since the Examiner has not fully explained the rationale for rejecting this claim, the Final Rejection is incomplete and Appellant is unable to more fully respond at this time. However, it is the Appellant's belief that neither document, alone or in combination, can be shown to teach or suggest the features of claim 194.

For at least these reasons, the rejection of claim 194 should be reversed.

C.   Conclusion

In view of the foregoing, Applicant respectfully requests that the Board reverse the rejections of claims 58, 62-81, 128, 132-144, 146-150, and 154-194 as set forth in the Office Action mailed on May 12, 2005, that the Board allow the pending claims since they are in condition for allowance, and that the Board grant Applicant such other and further relief that the Board deems just and proper.

VIII. Claims Appendix (37 C.F.R. § 41.37(c)(1)(viii))

The claims that are the subject of this Appeal are provided below:

58. A method for generating a variation of digital information, the method comprising:

producing a second instance of digital information based on a first instance of digital information, the first digital information instance having a first portion of functional data used in performing a computerized function, at least one aspect of performing the function being affected by a parameter setting, and a second portion of data including at least the parameter setting, the second instance of digital information including the functional data and the parameter setting, the producing being in response to a copying or purchasing event for the digital information;

changing the parameter setting in the second digital information instance, the changing being determined using parameter setting change data and being linked to the copying or purchasing event.

Claims 59-61. (Canceled)

62. The method of claim 58, wherein changing the parameter setting in the second digital information instance comprises changing in response to an event based on an amount of time related to the second digital information instance.

63. The method of claim 62, wherein changing in response to an event based on an amount of time comprises changing in response to a duration of time the second digital information instance has been used in performing the computerized function.

64. The method of claim 58, wherein changing the parameter setting in the second digital information instance comprises changing in a probabilistic manner.

65. The method of claim 58, wherein changing the parameter setting in the second digital information instance comprises changing according to information transmitted from a server.

66. The method of claim 65, wherein changing according to information transmitted from a server comprises using the information transmitted to prevent future changes to the parameter setting of the second digital information instance.

67. The method of claim 65, wherein changing according to information transmitted from a server comprises using the information transmitted to prevent future changes to a parameter setting of a copy of the second digital information instance.

68. The method of claim 58, wherein the second digital information instance is executable.

69. The method of claim 58, wherein the second digital information instance is non-executable.

70. The method of claim 58, wherein the first portion of functional data in the second digital information instance is not physically distinct from the second portion of data in the second digital information instance.

71. The method of claim 58, wherein the first portion of functional data in the second digital information instance is a data structure and wherein the second portion of data in the second digital information instance is stored within the data structure.

72. The method of claim 71, wherein the data structure represents an image.

73. The method of claim 58, wherein the second digital information instance performs the computerized function.

74. The method of claim 58, wherein the second digital information instance does not perform the computerized function.

75. The method of claim 74, comprising providing software or hardware capable of using the functional data in the second digital information instance to perform the computerized function.

76. The method of claim 58, comprising including the parameter setting change data in the second portion of data of the second digital information instance.

77. The method of claim 58, comprising transmitting the parameter setting change data in the second digital information instance from a server.

78. The method of claim 58, wherein the first digital information instance is received by a user.

79. The method of claim 58, wherein the first digital information instance is communicated to a user.

80. The method of claim 58, wherein the second portion of data in the second digital information instance includes instance lineage-relevant information.

81. The method of claim 80, comprising

receiving the digital information instance lineage-relevant information at a database; and

performing analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the second digital information instance.

Claims 82-127. (Canceled)

128. A system for generating a variation of digital information, the system comprising:

a memory device for storing a first digital information comprising:

a first portion of functional data used in performing a computerized function, at least one aspect of performing the function being affected by a parameter setting;

a second portion of data including at least the parameter setting; and

a computerized processor programmed to:

produce a second instance of digital information based on the first instance, the second instance of digital information including the functional data and the parameter setting, the producing being in response to a copying or purchasing event for the digital information;

change the parameter setting in the second digital information instance, the changing being determined using parameter setting change data and being linked to the copying or purchasing event.

Claims 129-131. (Canceled)

132. The system of claim 128, wherein the parameter setting in the second digital information instance is changeable in response to an event based on an amount of time related to the second digital information instance.

133. The system of claim 132, wherein the parameter setting in the second digital information instance is changeable in response to a duration of time the second digital information instance has been used in performing a computerized function.

134. The system of claim 128, wherein the parameter setting in the second digital information instance is changeable in a probabilistic manner.

135. The system of claim 128, wherein the parameter setting in the second digital information instance is changeable according to information transmitted from a server.

136. The system of claim 135, wherein the information transmitted from the server is used to prevent future changes to the parameter setting of the second digital information instance.

137. The system of claim 135, wherein the information transmitted from the server is used to prevent future changes to a parameter setting of a copy of the second digital information instance.

138. The system of claim 128, wherein the second digital information instance is executable.

139. The system of claim 128, wherein the second digital information instance is non-executable.

140. The system of claim 128, wherein the first portion of functional data in the second digital information instance is not physically distinct from the second portion of data in the second digital information instance.

141. The system of claim 128, wherein the first portion of functional data in the second digital information instance comprises a data structure and wherein the second portion of data in the second digital information instance is stored within the data structure.

142. The system of claim 141, wherein the data structure comprises a data structure representing an image.

143. The system of claim 128, wherein the second digital information instance uses the first portion of functional data in the second digital information instance to perform the computerized function.

144. The system of claim 128, wherein the second digital information instance does not use the first portion of functional data in the second digital information instance to perform the computerized function.

Claim 145 (Canceled)

146. The system of claim 128 wherein the parameter setting change data is included in the second portion of data of the second digital information instance.

147. The system of claim 128, wherein the parameter setting change data in the second digital information instance is transmitted from a server.

148. The system of claim 128, wherein the second portion of data in the second digital information instance includes digital information instance lineage-relevant information.

149. The system of claim 148, further comprising:

a database, the database effective to receive the digital information instance lineage-relevant information at the database; and

wherein the processor performs analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the second digital information instance.

150. A system for performing a method for generating a variation of digital information, the system comprising:

means for producing a second instance of digital information based on a first instance of digital information, the first digital information instance having a first portion of functional data used in performing a computerized function, at least one aspect of performing the function being affected by a parameter setting, and a second portion of data including at least the parameter setting, the second instance of digital information including the functional data and the

parameter setting, the producing being in response to a copying or purchasing event for the

digital information; and

means for changing the parameter setting in the second digital information

instance, the changing being determined using parameter setting change data and being linked to

the copying or purchasing event.

Claims 151-153. (Canceled)

154. The system of claim 150, wherein the means for changing the parameter

setting in the second digital information instance comprises means for changing in response to an

event based on an amount of time related to the second digital information instance.

155. The system of claim 154, wherein the means for changing in response to an

event based on an amount of time comprises means for changing in response to a duration of

time the second digital information instance has been used in performing the computerized

function.

156. The system of claim 150, wherein the means for changing the parameter

setting in the second digital information instance comprises means for changing in a probabilistic

manner.

157. The system of claim 150, wherein the means for changing the parameter

setting in the second digital information instance comprises means for changing according to

information transmitted from a server.

158. The system of claim 157, wherein the means for changing according to

information transmitted from a server comprises means for using the information transmitted to

prevent future changes to the parameter setting of the second digital information instance.

159. The system of claim 157, wherein the means for changing according to information transmitted from a server comprises means for using the information transmitted to prevent future changes to the parameter setting of a copy of the second digital information instance.

160. The system of claim 150, wherein the second digital information instance is executable.

161. The system of claim 150, wherein the second digital information instance is non-executable.

162. The system of claim 150, wherein the first portion of functional data in the second digital information instance is not physically distinct from the second portion of data in the second digital information instance.

163. The system of claim 150, wherein the first portion of functional data in the second digital information instance comprises a data structure and wherein the second portion of data in the second digital information instance is stored within the data structure.

164. The system of claim 163, wherein the data structure represents an image.

165. The system of claim 150, wherein the second digital information instance performs the computerized function.

166. The system of claim 150, wherein the second digital information instance does not perform the computerized function.

167. The system of claim 166, further comprising means for providing software or hardware capable of using the functional data in the second digital information instance to perform the computerized function.

168. The system of claim 150, wherein the parameter setting change data in the second digital information instance is included in the second portion of data of the second digital information instance.

169. The system of claim 150, wherein the parameter setting change data in the second digital information instance is transmitted from a server.

170. The system of claim 150 wherein the first digital information instance is received by a user.

171. The system of claim 150, wherein the first digital information instance is communicated to a user.

172. The system of claim 150, wherein the second portion of data in the second digital information instance includes digital information instance lineage-relevant information.

173. The system of claim 172, comprising

means for receiving the digital information instance lineage-relevant information at a database; and

means for performing analysis of the digital information instance lineage-relevant information to infer a set of desirable characteristics for the second digital information instance.

174. A method for generating a variation of digital information, the method comprising:

passing an instance of digital information to a user, the instance having a first portion of functional data used in performing a computerized function, at least one aspect of performing the function being affected by a parameter setting, and a second portion of data including at least the parameter setting;

enabling purchase of the instance by the user; and

changing the parameter setting, the changing being determined using parameter

setting change data and being in response to the purchase.

175. The method of claim 174, wherein the digital information instance is

executable.

176. The method of claim 174, wherein changing the parameter setting comprises

changing in response to an event based on an amount of time related to the digital information

instance.

177. The method of claim 176, wherein changing in response to an event based

on an amount of time comprises changing in response to a duration of time the digital

information instance has been used in performing the computerized function.

178. The method of claim 174, wherein changing the parameter setting

comprises changing in a probabilistic manner.

179. The method of claim 174, wherein changing the parameter setting comprises

changing according to information transmitted from a server.

180. The method of claim 179, wherein changing according to information

transmitted from a server comprises using the information transmitted to prevent future changes

to the parameter setting of the digital information instance.

181. The method of claim 179, wherein changing according to information

transmitted from a server comprises using the information transmitted to prevent future changes

to a parameter setting of a copy of the digital information instance.

182. The method of claim 174, wherein the digital information instance is non-

executable.

183. The method of claim 174, wherein the first portion of functional data in the digital information instance is not physically distinct from the second portion of data in the digital information instance.

184. The method of claim 174, wherein the first portion of functional data in the digital information instance is a data structure and wherein the second portion of data in the digital information instance is stored within the data structure.

185. The method of claim 174, wherein the data structure represents an image.

186. The method of claim 174, wherein the digital information instance performs the computerized function.

187. The method of claim 174, wherein the digital information instance does not perform the computerized function.

188. The method of claim 174, comprising providing software or hardware capable of using the functional data to perform the computerized function.

189. The method of claim 174, comprising including the parameter setting change data in the second portion of data of the digital information instance.

190. The method of claim 174, comprising transmitting the parameter setting change data from a server.

191. The method of claim 174, wherein the digital information instance is received by a user.

192. The method of claim 174, wherein the digital information instance is communicated to a user.

193. The method of claim 174, wherein the second portion of data in the digital information instance includes instance lineage-relevant information.

194. The method of claim 193, comprising

receiving the digital information instance lineage-relevant information at a

database; and

performing analysis of the digital information instance lineage-relevant

information to infer a set of desirable characteristics for the digital information instance.

IX. Evidence Appendix (37 C.F.R. § 41.37(c)(ix))

Copies of the evidence relied upon by the Examiner as to grounds of rejection are

attached herewith.

X. Related Proceedings Appendix (37 C.F.R. § 41.37(c)(x))

As stated above, there are no related appeals or interferences. Therefore, no copies of

any court or Board decision are being submitted herewith.
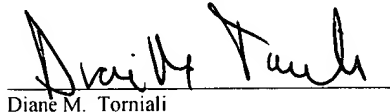
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